THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.2480 OF 1999

ORAL ORDER:

The petitioner claims to be in possession of Ac.12.00 of dry land situated in Sy.No.142 of Kothagudem, Khammam District. It is stated that by order dated 29.11.1983, the Tahsildar, Kothagudem, directed the petitioner to hand over Ac.3.25 gts, out of land held by him and the same was complied with. In spite of the same, the 3rd respondent-Mandal Revenue Officer directed the petitioner to hand over the remaining Ac.8.15 gts of land also. Aggrieved by the said action, this writ petition has been filed contending *inter alia* that the impugned action of the respondents in attempting to dispossess the petitioner from Ac.8.15 gts of land without following due process of law is arbitrary and illegal.

A counter affidavit has been filed by the Mandal Revenue Officer, Kothagudem on behalf of the respondents stating that the Ac.31.36 gts of land situated in Sy.No.142 of Kothagudem village is a Government land and the same has been identified for the purpose of implementing Urban Housing Scheme. Accordingly, the petitioner along with other encroachers was served with a notice under Section 7 of the A.P. Land Encroachment Act, 1905 (for short "the Act") on 5.9.1983. As the explanation offered by the petitioner was not satisfactory, the then Tahsildar passed an order under Section 6 of the Act on 19.12.1983 directing eviction of the petitioner from Ac.3.25 gts in Sy.No.142/12 and, accordingly, possession was taken under a panchanama. Though the petitioner preferred an Appeal against the said order, the same was dismissed by the Revenue Divisional Officer, Kothagudem on 21.3.1984. The Revision Petition filed by the petitioner was also dismissed by the Joint Collector. In spite of the same, the petitioner filed O.S.No.418 of 1985 in the Court of the District Munsif, Kothagudem, seeking perpetual injunction. The said suit was

dismissed, which was confirmed on Appeal by the Court of Senior Civil Judge, Kothagudem in A.S.No.62 of 1992. It is further stated that after removing encroachments, 739 plots were made and a lay-out was sent for approval to the Director of Town Planning and the same was approved by proceedings dated 4.4.1984. Thereafter, house site pattas were distributed to the beneficiaries and they were also given possession on 24.6.1984. The claim of the petitioner that apart from the said Ac.3.25 gts of land, he is in possession of another extent of Ac.8.15 cents is false. Hence, the question of the respondents threatening the petitioner to hand over possession of Ac.8.15 gts does not arise.

The said version of the respondents has been disputed by the petitioner in his affidavit in reply, reiterating that he has bee in possession of Ac.8.15 gts of land in Sy.No.142. It is also contended that the claim of the respondents that the land in Sy.No.142 is classified as Government Poramboke is incorrect.

I have heard the learned counsel for both the parties.

As could be seen from the material on record, it is not in dispute that Ac.3.25 gts of land situated in Sy.No.142 was already taken over from the petitioner under a panchanama. Though the petitioner claimed that it is not poramboke land, the fact that the respondents have already taken possession of the said land is not in dispute. So far as the claim of the petitioner that he is in possession of another extent of Ac.8.15 gts is not supported by any material. On the other hand, the said plea has been specifically denied by the respondents. According to the respondents the total extent of land in possession of the petitioner was only Ac.3.25 gts, which was taken possession under the panchanama on 19.12.1983. The material on record also shows that the petitioner could not succeed before the Civil Court in which he sought for an injunction claiming title to the property in question. Be that as it may, since nothing has been placed before this Court to substantiate the title and possession claimed by the petitioner in respect of Ac.8.15 gts in Sy.No.142, the *mandamus* as prayed for

cannot be granted.

Accordingly, the writ petition is dismissed. However, this shall not preclude the petitioner to work out appropriate common law remedy, if so advised. No costs.

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(G. ROHINI, J.)

27th June, 2007.
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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.2480 OF 1999

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27th June, 2007.

Between:

Nachari Somaiah. ..Petitioner.

And

The State of A.P., represented by
its Principal Secretary, Revenue
Department, Secretariat,
Hyderabad and others. .. Respondents.